



RICHARD SANCHEZ
CHIEF INFORMATION OFFICER

**COUNTY OF LOS ANGELES
CHIEF INFORMATION OFFICE**

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ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

February 09, 2016

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

21 February 9, 2016


PATRICK O'QUINN
ACTING EXECUTIVE OFFICER

Dear Supervisors:

**SOLE SOURCE AMENDMENT NUMBER TWO WITH WEST INTERACTIVE SERVICES
CORPORATION TO EXTEND PROVISION OF EMERGENCY MASS NOTIFICATION SYSTEM
SERVICES ACQUIRED UNDER AGREEMENT NUMBER 76945
WITH TWENTY FIRST CENTURY COMMUNICATIONS**

(ALL DISTRICTS) (3 VOTES)

SUBJECT

The County of Los Angeles Chief Information Office is requesting Board approval of Amendment Number Two with West Interactive Services Corporation (formerly "Twenty First Century Communications") to Agreement Number 76945, to amend contract provisions and continued usage of the Mass Notification System.

IT IS RECOMMENDED THAT THE BOARD:

1. Approve and delegate authority to the Chief Information Officer (CIO) to execute the attached Amendment Number Two (Amendment) with West Interactive Services Corporation (West) to the Agreement in order to:
 - a. Modify and add certain Agreement provisions, including (i) to update representations, warranties and indemnification by County arising out of West's non-compliance with the applicable Federal Communications Commission (FCC) and/or Federal Trade Commission (FTC) rules and regulations due to the content or messages provided for transmission by County to West, consistent with the most recent updates to such rules and regulations; (ii) to revise workers' compensation and employers' liability insurance policy limits; (iii) to add a Time Off for Voting provision; and (iv) to recognize contractor's name change from "West Notifications Inc., dba Twenty First Century

Communications" to "West Interactive Services Corporation".

b. Extend the term of the Agreement for one (1) year through February 16, 2018 for the continued provision of Mass Notification System (MNS) services with no increase to the total contract sum.

2. Delegate authority to the Chief Information Officer (CIO), or his designee, to terminate the Agreement earlier, if necessary, with 30 days advance written notice once the Office of Emergency Management (OEM) has completed the solicitation process for a new Agreement and has implemented the replacement services.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Approval of the proposed Amendment will promote County's compliance with the most recent FCC and FTC rules and regulations. The reduction to the insurance coverage for Workers' Compensation has been reviewed by the Chief Executive Office (CEO) Risk Management Branch (RMB), which has determined that the umbrella liability is sufficient and acceptable to cover any potential claim.

Approval of the proposed Amendment will also provide one (1) additional year for the OEM to complete the solicitation process for a new Agreement, which has already been initiated, and implement the replacement services. OEM plans to complete the solicitation process by the end of the year.

During the period of this Agreement extension, OEM will assume administrative and program management responsibilities of the existing MNS (Alert LA). This responsibility is consistent with OEM's emergency preparedness mission. The Los Angeles County Sheriff's Department (Sheriff) will continue its role unchanged as the 24/7 operator of the system.

Alert LA is being administered by the Sheriff in coordination with the County's Emergency Operations Center and the County Fire. Alert LA is designed to notify County residents and businesses of emergencies and to provide information regarding necessary actions, such as evacuations.

Alert LA was implemented in May 2009 and has been activated over 160 times to date, most notably for the Crescenta Valley "Station" fire. Alert LA provides for the timely dissemination of consistent emergency information via telephone calls and text messages.

Implementation of Strategic Plan Goals

The recommended Amendment supports the County's Strategic Plan Goal 1, Operational Effectiveness. Specifically, the proposed Amendment will ensure the citizens of the County receive effective services in the event of a disaster.

County receive effective services in the event of a disaster.

FISCAL IMPACT/FINANCING

The maximum County obligation for the term of the Agreement will remain at \$1,535,000. A portion of that sum was used to purchase 1,000,000 minutes at 16 cents per call and 1,000,000 text messages at 5 cents per text. There are approximately 400,000 unused call minutes and 900,000 text messages remaining in the Agreement. There is approximately \$600,000 in residual balance for the remaining term of the Agreement. This Amendment will result in no increase in the Agreement

sum.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

In February 2009, your Board approved the Agreement with Twenty First to develop and implement the MNS and to provide MNS services for the County. Unless extended, the Agreement will expire on February 16, 2017. The MNS has been dubbed internally as "Alert LA County" or "Alert LA".

The CIO seeks delegated authority to terminate the Agreement earlier with 30 days advance written notice once OEM has completed the solicitation process for a new Agreement and implemented the replacement services.

Pursuant to Board policy, OEM will administer the solicitation process for a MNS and Services.

Advanced notification of our intent for a Sole Source Amendment to extend the Agreement was sent on December 24, 2015.

The proposed updates to any insurance and indemnification provisions have been reviewed and approved by CEO RMB. County Counsel has approved this Amendment as to form.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There will be no negative impact on current County operations and services.

CONCLUSION

Upon approval by your Board, it is requested that the Executive Office of the Board of Supervisors return one (1) adopted copy of the stamped Board letter to the CIO.

The Honorable Board of Supervisors

2/9/2016

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Respectfully submitted,

A handwritten signature in black ink that reads "Richard Sanchez". The signature is written in a cursive style with a long, sweeping underline.

RICHARD SANCHEZ

Chief Information Officer

RS:PL:FN:pa

Enclosures

c: Chief Executive Office
Executive Office, Board of Supervisors
County Counsel

**AMENDMENT NUMBER TWO TO AGREEMENT NO. 76945
FOR THE DEVELOPMENT AND IMPLEMENTATION OF
A MASS NOTIFICATION SYSTEM**

This Amendment Number Two ("Amendment No. 2") is made and entered into this _____ day of February 2016 by and between the County of Los Angeles ("County") and West Interactive Services Corporation, a Delaware corporation ("Contractor"), based on the recitals set forth below.

RECITALS

WHEREAS, County and Twenty First Century Communications have entered into that certain Agreement No. 76945 for the Development and Implementation of a Mass Notification System, effective as of February 17, 2009 (the "Agreement") for a term of five (5) years through February 16, 2014, to design, implement, integrate and deliver a Mass Notification System ("MNS") for the benefit of the County; and

WHEREAS, the Agreement was previously amended by Amendment No. 1, dated December 17, 2013, to extend the term of the Agreement for two (2) years through February 16, 2016 with a one-year optional renewal period to be exercised by the parties, unless either party provides to the other a 90-day written notice of non-renewal and to recognize Contractor's name change from "Twenty First Century Communications" to "West Notifications Inc. dba Twenty First Century Communications"; and

WHEREAS, the Agreement has been extended for the optional one-year period through February 16, 2017, since no 90-day written notice of non-renewal was provided by either party; and

WHEREAS, County and Contractor desire to amend the Agreement (i) to further extend the term of the Agreement for one (1) year from February 17, 2017 through February 16, 2018 for provision of services under the Agreement at the current annual maintenance fee of \$43,645, and (ii) to recognize the name change of Contractor from "West Notifications, Inc. d/b/a Twenty First Century Communications" to "West Interactive Services Corporation" and provide consent to the delegation of duties and assignment of rights under the Agreement to West Interactive Services Corporation; and

WHEREAS, the parties agree to change the programming charges from \$176 per hour to \$180 per hour; and

WHEREAS, County and Contractor additionally desire to (i) update certain provisions of the Agreement required by County's Board of Supervisors to reflect changes made to such provisions since County and Contractor entered into the Agreement on February 19, 2009, and (ii) to add/or modify certain provisions as requested by Contractor.

NOW THEREFORE, pursuant to Paragraph 6 (Change Notices and Amendments) of the body of the Agreement and in consideration of the foregoing recitals and mutual covenants

contained herein, all of which are incorporated as part of this Amendment No. 2, the receipt and sufficiency of which are acknowledged, County and Contractor hereby agree as follows:

1. Paragraph 7 (Term) of the body of the Agreement shall be amended to extend the term of the Agreement for one (1) year from February 17, 2017 through February 16, 2018, with no additional optional renewal period.
2. All references to "West Notifications, Inc. dba Twenty First Century Communications", "West Notifications, Inc." or "Twenty First Century Communications" shall henceforth be replaced with "West Interactive Services Corporation". Furthermore, pursuant to Paragraph 38 (Assignment by Contractor) of Exhibit A-1 (Additional Terms and Conditions) to the Agreement, (i) West Interactive Services Corporation agrees to accept all rights and perform all obligations of "Contractor" under the Agreement, and (ii) County consents to the delegation of duties and assignment of rights under the Agreement to West Interactive Services Corporation.
3. Paragraph 13.3.C (Workers Compensation and Employers' Liability) of Exhibit A-1 (Additional Terms and Conditions) to the Agreement is hereby deleted in its entirety and replaced with Paragraph 13.3.C (Workers Compensation and Employers' Liability) revised to read as follows:

13.3 Insurance Coverage Requirements

- C. Workers Compensation and Employers' Liability insurance providing workers compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which Contractor is responsible. If Contractor's employees will be engaged in maritime employment, coverage shall provide workers compensation benefits as required by the U.S. Longshore and Harbor Workers' Compensation Act, Jones Act or any other federal law for which Contractor is responsible.

In all cases, the above insurance also shall include Employers' Liability coverage with limits of not less than the following:

Each Accident:	\$500,000
Disease – policy limit:	\$500,000
Disease – each employee	\$500,000

4. Paragraph numbering error is corrected by replacing any and all references to Paragraph 56 (Alert Services), of Exhibit A-1 (Additional Terms and Conditions) to the Agreement, including all subparagraphs thereunder with Paragraph 57 (Alert Services).
5. Paragraph 57.2 (Responsibility for Content, Transmitting Messages, and Accounts) of Exhibit A-1 (Additional Terms and Conditions) to the Agreement (formerly incorrectly numbered 56.2 in Amendment No. 1) is deleted in its entirety and replaced with Paragraph 57.2 (Representations and Warranties; Responsibility for Accounts and Content) revised to read as follows:

57.2 Representations and Warranties; Responsibility for Accounts and Content

County represents and warrants that, to its knowledge:

- i. It is solely responsible for the Content and it has the legal right to use all Content and send all Messages to the Recipients (including obtaining any required consents from the Recipients) and the content, timing and purpose of all Messages, and County's campaigns and programs are in compliance with all applicable laws, rules and regulations;
- ii. County is the transmitter of all Content and Messages and Contractor is merely acting at County's direction as a technology conduit for the transmission of the Content and the Messages;
- iii. Contractor's use of the Content shall not violate the rights of any third party or any law, rule or regulation;
- iv. County has obtained prior express consent to contact each wireless phone number delivered by County to Contractor in connection with the provision of any Services delivering a prerecorded or text message ("Notification Services");
- v. The intended contact recipient is the current subscriber to the wireless phone number;
- vi. County has (a) incorporated an interactive opt-out mechanism as part of any program relating to any Services or (b) the contacts that are the subject of such Services are not initiated to induce the purchase of goods or services or to solicit a charitable contribution ("Solicitations");
- vii. County has obtained from the recipient of any Solicitation an express written agreement that meets the requirements set forth in Section 310.4(b)(1)(v)(A) of the FTC's Telemarketing Sales Rule; and
- viii. County will not transmit or allow to be transmitted any Content or Messages that: (a) it does not have a right to make available under any law or under contractual or fiduciary relationship; (b) are false, inaccurate, misleading, unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically, or otherwise objectionable; harmful to minors in any way; (c) infringe any patent, trademark, trade secret, copyright, or other proprietary rights or rights of publicity or privacy of any party; (d) utilize any unsolicited or unauthorized advertising, promotional materials, "junk mail", "spam", or any other forms of solicitation; or (e) interfere with or disrupts the Services or servers or network operator networks.

Upon request, County shall provide reasonable proof of compliance with the provisions set forth in this section and where Contractor reasonably believes that County may not have complied with such provisions or with all laws, rules and regulations, Contractor may, at its option (i) scrub all numbers against any appropriate data base deemed necessary to remove all wireless phone numbers, (ii)

insert an interactive opt-out mechanism and pass the resulting data to County or (iii) not provide any Services.

County shall indemnify, defend and hold Contractor, its affiliates and their officers, directors, employees and agents harmless from and against any and all claims of loss, damages, liability, costs, and expenses (including reasonable attorneys' fees and expenses) arising out of or resulting solely from: Contractor following County's instructions in sending the Messages or County's breach of any representation and warranty set forth in this Paragraph 57.2.

6. Paragraph numbering error is corrected by replacing any and all references to Paragraph 57 (County's Defaulted Property Tax Program) of Exhibit A-1 (Additional Terms and Conditions) to the Agreement with Paragraph 58 (County's Defaulted Property Tax Program).
7. Paragraph 59 (Time Off for Voting) is added to Exhibit A-1 (Additional Terms and Conditions) to the Agreement to read as follows:

59. TIME OFF FOR VOTING

To the extent applicable, Contractor shall notify its affected employees, and shall require each affected subcontractor to notify and provide to its employees, information regarding the time off for voting law (California Elections Code Section 14000). Not less than ten (10) calendar days before every California statewide election, every Contractor and subcontractor shall keep posted conspicuously at the place of work, if practicable, or elsewhere where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of California Elections Code Section 14000.

8. Section under Exhibit C (Price and Schedule of Payments) to the Agreement entitled "Additional Programming" is hereby deleted in its entirety and replaced with Section entitled "Additional Programming" revised to read as follows:

ADDITIONAL PROGRAMMING:

Programming charges are provided on a per-project basis at the rate of \$180 per hour.

9. Subject to the alterations and amendments contained in this Amendment, the parties ratify and confirm the Agreement in all other respects.
10. Capitalized terms used herein without definition (including in the recitals hereto), have the meanings given to such terms in the Agreement, as amended by this Amendment No. 2. Unless otherwise noted, Paragraph references in this Amendment No. 2 refer to Paragraphs of the body of the Agreement, as amended by this Amendment No. 2.
11. This Amendment No. 2 shall become effective as of the date identified in the recitals, which is the date upon which:

- 11.1 An authorized officer of Contractor shall have executed this Amendment No. 2;
- 11.2 County Counsel shall have approved this Amendment No. 2 as to form; and
- 11.3 County's Board of Supervisors shall have approved this Amendment No. 2.
- 12. Except as expressly provided in this Amendment No. 2, all other provisions and conditions of the Agreement shall remain the same and in full force and effect.
- 13. Contractor and the person executing this Amendment No. 2 on behalf of Contractor hereby represent and warrant that the person executing this Amendment No. 2 for Contractor is an authorized agent who has actual authority to bind Contractor to each and every item, condition, and obligation of the Agreement and that all requirements of Contractor have been fulfilled to provide such actual authority.
- 14. This Amendment No. 2 shall be governed by, and construed in accordance with, the laws of the State of California applicable to agreements made and to be performed within that State.

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**AMENDMENT NUMBER TWO TO AGREEMENT NO. 76945
FOR THE DEVELOPMENT AND IMPLEMENTATION OF
A MASS NOTIFICATION SYSTEM**

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed on their behalf by their duly authorized officers, effective as of the date first set forth above.

COUNTY OF LOS ANGELES:

By _____
Authorized Signature

Name _____

Title _____

CONTRACTOR:
WEST INTERACTIVE SERVICES CORPORATION

By _____
Authorized Signature

Name _____

Title _____

APPROVED AS TO FORM:

MARY C. WICKHAM
County Counsel

By _____
VICTORIA MANSOURIAN
Principal Deputy County Counsel